**THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA**

**WRIT PETITION No.15296 of 1998**

**DATED: 02 .08.2007**

**Between:**

K.M.Arifuddin, Secretary
Madina Education & Welfare
Society, Public Garden Road,
Nampally, Hyderabad.

.. Petitioner

And

The Government of India,
through Director,
Welfare Minority Cell,
Ministry of Social Welfare,
New Delhi.

.. Respondent

**THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA**

**WRIT PETITION No.15296 of 1998**

**ORDER:**

This writ petition is filed seeking a Writ of Mandamus directing the respondent to act according to law and also declaring the action of the respondent seeking to recover the entire amount of grant-in-aid of Rs.2,49,400/- and also declare the impugned letter dated 26.03.1998 bearing No.18/3/90-MC and the letter dated 19.05.1998 issued by Ministry of Welfare, Government of India as illegal and arbitrary.

2. It is the case of the petitioner that in accordance with the directions of the Cabinet committee on 15 Point Programme for Minority Welfare chaired by the Prime Minister, a scheme of pre-examination coaching/training to weaker sections of the Minority communities was formulated by the Government of India, Ministry of Welfare, and as such, it had sent a letter dated 09.10.1990 to the petitioner's Society stating the said scheme. In response to the said letter of communication, the petitioner has sent a copy of the prospectus of Carrier Guidance, a programme formulated by the Education Centre, along with an application form duly filled as a token of accepting the proposal for the pre-examination courses and accepting the same, the respondent conveyed the sanction of the President for the payment of grant-in-aid of Rs.2,49,400/- as per the details given in the said communication as a first instalment for the year 1990-91 for starting the said coaching centre and it was

sanctioned subject to certain terms and conditions set out in the said communication. On 30.03.1991, a Demand Draft was sent along with a letter of the Ministry of Welfare, Government of India for Rs.2,49,400/- as grant-in-aid for pre-examination coaching-cum-training centre sanctioned to the petitioner's Society. As per the terms and conditions of the Ministry of Welfare, the petitioner's Society constituted a Board of Members to undertake the training scheme and accordingly conducted the said coaching for Polytechnic Entrance Examination for 19 students, Engineering EAMCET coaching for 60 students and EAMCET Medical coaching for 60 students, and number of students, who have taken coaching in their centre, have secured good ranks in the EAMCET examination and got seats in various colleges.

The main grievance of the petitioner is that presumably on complaint from some fictitious Parents Association, an enquiry was conducted by the Enquiry Officer with regard to the alleged misutilisation of grants sanctioned to the petitioner's Society, who inspected the class rooms, furniture and also machinery purchased by the petitioner from the grant-in-aid for conducting pre-examination coaching classes and also he examined the witnesses and found him guilty of misutilising the grant-in-aid of an amount of Rs.2,49,400/- sanctioned for pre-examination coaching course. Further, the petitioner contends that the Director (Minority Cell), Department of Welfare, Government of India, addressed a letter to him stating that on the findings of the Enquiry Officer, the Ministry of Welfare Department, Government of A.P. through their letter dated 03.12.1997 had recommended to the Ministry of Union Government to recover the entire amount from him with interest at the rate of 6% as per terms and conditions of the scheme of grant-in-aid and the said letter dated 26.03.1998 further directs the petitioner to refund the entire sanctioned

amount with 6% interest from 30.03.1991 within fortnight. Further, the respondent also issued another letter dated 19.05.1998 in continuation of the impugned letter dated 26.03.1998 directing the petitioner to refund the entire sanctioned amount with 6% interest from 30.03.1991, the date of disbursement of amount, latest by 30.05.1998 through demand draft in favour of Pay and Accounts Officer, Ministry of Welfare, Government of India, Shastri Bhawan, New Delhi. The petitioner contends that the Government of India failed to supply a copy of the report of enquiry and also failed to issue a notice affording an opportunity to him to explain the findings of the report. Hence, this writ petition is filed.

3. Heard both the counsel.

4. This Court, on 11.06.1998 was pleased to suspend the impugned order on a condition of the petitioner depositing an amount of Rs.77,000/- within a period of four weeks. When the matter has taken up for final hearing, the name of Sri R.S.Murthy was shown for respondent. But, as that there is a change in the name of the learned Standing Counsel for respondent, this Court directed the name of Additional Solicitor General to be printed. Though the name of Additional Solicitor General for respondent is printed, he did not present.

5. Despite the fact that notices are served on the respondent, the respondent has not chosen to file any counter.

6. Having heard the learned counsel for the petitioner and as there is no assistance from the respondent either by filing a counter or by appearance, this Court has no option, but to accept the said contentions put forth by the learned counsel for the petitioner. However, as the Enquiry Officer's report reveals that the petitioner's

Society has to refund an amount of Rs.88,513/- incurred illegally towards grant of cash awards to 9 students including 4 non-minority students, inflated excess expenditure allegedly spent on salaries to office staff, furniture and irregular expenditure incurred in violation of the sanction (Financial Pattern Prescribed by the Government) on the purchase of Audio Visual equipments and also to return the B.P.L. plain paper copier (Rs.56,525/-) and the Godrej Typewriter (Rs.6,688/-), but, as the petitioner has already deposited an amount of Rs.77,000/- by virtue of the interim orders passed by this Court on 11.06.1998, this Court is of the view that impugned orders issued for recovery of an amount of Rs.2,49,400/- with 6% interest from 30.03.1991 is arbitrary and illegal, and the same is restricted to Rs.77,000/-, which the petitioner has already paid in view of the interim orders passed by this Court on 11.06.1998.

7. Subject to the above directions, this writ petition is disposed of. No order as to costs.

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(GOPALA KRISHNA TAMADA,J)

Dt.02.08.2007

v v